

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM DECISION

Bustorf Dairy

30430 Longnecker Road Leonidas, Michigan 49066

submitted an application on October 25, 2007, and as amended through January 15, 2008, for a new National Pollutant Discharge Elimination System Permit for the proposed

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that would authorize an increased loading of pollutants from the production area to unnamed tributaries of Bear Creek and from land application areas to a variety of receiving waters, which would lower the water quality with respect to certain parameters. Therefore, the application is subject to the demonstration requirements of Rule 323.1098 of the Michigan Water Quality Standards (Rule 98). The applicant submitted an antidegradation demonstration in accordance with Rule 98. All information submitted by the applicant has been reviewed and carefully considered.

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq; the "Federal Act"), Michigan Act 451, Public Acts of 1994, as amended (the "Michigan Act"), Parts 31 and 41, and Michigan Executive Orders 1991-31, 1995-4 and 1995-18, the State of Michigan, Department of Environmental Quality finds, based upon the weight of all evidence, that the applicant has not satisfied the required conditions of Rule 98. Specifically, the applicant has not adequately demonstrated the important social or economic development and the benefits to the area in which the waters are located that would be foregone if the new or increased loading of pollutants is not allowed.

Consequently, the Department has determined that the applicant's antidegradation demonstration has not shown that lowering of water quality is necessary to support important social and economic development in the area. This determination is solely for purposes of satisfying state water quality regulations and is not intended to supplant local requirements, including land use or zoning laws. It is not, and should not, be construed as a finding by the Department that the proposed development meets local requirements or ordinances.

Therefore, the NPDES application submitted on October 25, 2007, and as amended through January 15, 2008, by Bustorf Dairy is hereby denied.

Any person who is aggrieved by this decision may file a sworn petition with the Office of Administrative Hearings of the Michigan Department of Labor and Economic Growth, setting forth the conditions of the permit which are being challenged and specifying the grounds for the challenge. The Department of Labor and Economic Growth may reject any petition filed more than 60 days after issuance of this decision as being untimely.

William Creal, Chief

Permits Section, Water Bureau

Date: 6-31-2008